#### **RIC 2004**

## Safety Conscious Work Environment Session T5

#### **Alternative Dispute Resolution**

Nick Hilton Sr. Enforcement Specialist Office of Enforcement March 11, 2004



## **ADR Pilot Background**

- SECY-03-0115, dated September 4, 2003
  - Recommended ADR options at four points:
    - For discrimination cases only:
      - □ After ARB determination a *prima facie* discrimination case exists (Early ADR)
    - For either discrimination or other wrongdoing cases:
      - □ After completion of an OI investigation, but prior to a PEC
      - Following the issuance of an NOV and CP (if proposed)
      - Following imposition of a civil penalty but prior to a hearing
- SRM dated September 8, 2003
  - Directed staff to develop pilot
    - As described in SECY-03-0115
    - without regard to significance in the case of Early ADR



### ADR Pilot "Issues"

- NRC Staff developed "issues" document:
  - Posted on OE web site and solicited comments (FRN 67492 dated Dec. 2, 2003)
- Public meeting Dec. 10, 2003
  - Roundtable discussion
  - □ Representatives from industry, public, and whistleblowers
- Received comments until Dec. 31, 2003





# ADR Pilot Meeting Summary

Issues discussed and general consensus points:

- Benefits of ADR
  - Faster, more efficient
  - Avoid OI investigation
  - Address the issues at earliest possible stage
- □ Retaining accountability
  - Method to ensure accountability for deliberate wrongdoing exists through licensee's own corrective action
- □ Ensuring underlying issues relating to SCWE are addressed
  - Licensee typically address as appropriate outside of settlement agreement
- □ Cases where ADR use is appropriate
  - Very limited exceptions



## **ADR Pilot Meeting Summary**

Issues discussed and general consensus points (con't):

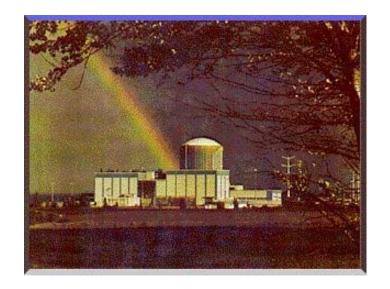
- □ Roles of NRC, licensees, and whistleblowers
  - Licensee and whistleblower parties in Early ADR
    - □ NRC review of settlement agreement
  - Licensee and NRC parties post-investigation
- Qualifications for and selection of neutrals
  - Bottom line: anyone both parties agree to would be acceptable
- □ Paying for ADR
  - General consensus was for NRC to pay for entire Early ADR fee, split with licensee for post-investigation ADR
- □ General implementation
  - Publicly released information
  - Timeliness
  - DOL timeliness requirement (180 days)



### **ADR Pilot Current Status**

Pilot drafted as an Interim Enforcement Policy





 Intend to publish in Federal Register for public comment

